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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/754,410	01/09/2004	Richard L. McCreery	OSU1159-141H	7980

8698 7590 09/12/2005

STANDLEY LAW GROUP LLP  
495 METRO PLACE SOUTH  
SUITE 210  
DUBLIN, OH 43017

EXAMINER
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NHU, DAVID

ART UNIT	PAPER NUMBER
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2818

DATE MAILED: 09/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/754,410

Applicant(s)

MCCREERY, RICHARD L.

Examiner

David Nhu

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 August 2005.  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.  
4a) Of the above claim(s) 20-22 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-19 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☒ Certified copies of the priority documents have been received in Application No. 09/755,437.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 07.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

## DETAILED ACTIONS

### *Double Patenting*

1. **Claims 1-19 of the application number of 10/754,410** are rejected under the judicially created doctrine of obviousness-type double patenting over **claims 32-54 of U. S. Patent No. 6,855,950 B2** since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application and similar language recited in the patent claims obviously depict a similar method having either same steps and/or same materials, and such is also disclosed in both the patent and the instant application.

### Drawings

2. There is no description of layer 38 in figure 13.

### Specifications

3. Pages 21, 28, 29, "figures 1 and 1A" should be –figures 1A-1B–

### Claims Objection

4. Claims 3, 17, "the same length" lacks a clear antecedent basis.

Claims 9, 14, "**the** passage of current; **the** emission of electromagnetic radiation" lack a clear antecedent basis.

Claims 5, 6, 7, 9, 14, 15, 16, "said molecular units" should be –said **parallel** molecular units–

Claim 15, "the incidence of electromagnetic radiation; the reflectivity or transmissibility" lack a clear antecedent basis.

### Conclusion

5. The prior art made of record and not relied upon is considered pertinent to

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applicant's disclosure: Wynne'968, McCreery'128 are as cited of interest.

6. A shortened statutory period for response to this action is set to expired 3 (three) months and 0 (zero) day from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned (see 710.02 (b)).

6. Any inquiry concerning this communication on earlier communications from the examiner should be directed to David Nhu, (571)272-1792. The examiner can normally be reached on Monday-Friday from 7:30 AM to 5:00 PM. The examiner's supervisor, David Nelms can be reached on (571)272-1787.

*The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.*

*Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.*

David Nhu



September 6, 2005